
Introduced by Senator Poochigian

February 21, 2003

An act to amend Section 139.3 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 899, as introduced, Poochigian. Workers' compensation: physician referral.

Existing workers' compensation law provides that it is unlawful for a physician to refer a person for specified medical goods or services whether for treatment or medical-legal purposes if the physician or his or her immediate family has a financial interest with the person or in the entity that receives the referral, except in prescribed circumstances.

This bill would make technical, nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 139.3 of the Labor Code is amended to
2 read:

3 139.3. (a) Notwithstanding any other provision of law, to the
4 extent those services are paid pursuant to Division 4 (commencing
5 with Section 3200), it is unlawful for a physician to refer a person
6 for clinical laboratory, diagnostic nuclear medicine, radiation
7 oncology, physical therapy, physical rehabilitation, psychometric
8 testing, home infusion therapy, or diagnostic imaging goods or
9 services whether for treatment or medical-legal purposes if the

1 physician or his or her immediate family has a financial interest
2 with the person or in the entity that receives the referral.

3 (b) For purposes of this section and Section 139.31, the
4 following shall apply:

5 (1) “Diagnostic imaging” includes, but is not limited to, all
6 X-ray, computed axial tomography magnetic resonance imaging,
7 nuclear medicine, positron emission tomography, mammography,
8 and ultrasound goods and services.

9 (2) “Immediate family” includes the spouse and children of
10 the physician, the parents of the physician, and the spouses of the
11 children of the physician.

12 (3) “Physician” means a physician as defined in Section
13 3209.3.

14 (4) A “financial interest” includes, but is not limited to, any
15 type of ownership, interest, debt, loan, lease, compensation,
16 remuneration, discount, rebate, refund, dividend, distribution,
17 subsidy, or other form of direct or indirect payment, whether in
18 money or otherwise, between a licensee and a person or entity to
19 whom the physician refers a person for a good or service specified
20 in subdivision (a). A financial interest also exists if there is an
21 indirect relationship between a physician and the referral
22 recipient, including, but not limited to, an arrangement whereby
23 a physician has an ownership interest in any entity that leases
24 property to the referral recipient. Any financial interest transferred
25 by a physician to, or otherwise established in, any person or entity
26 for the purpose of avoiding the prohibition of this section shall be
27 deemed a financial interest of the physician.

28 (5) A “physician’s office” is either of the following:

29 (A) An office of a physician in solo practice.

30 (B) An office in which the services or goods are personally
31 provided by the physician or by employees in that office, or
32 personally by independent contractors in that office, in accordance
33 with other provisions of law. Employees and independent
34 contractors shall be licensed or certified when ~~that~~ licensure or
35 certification is required by law.

36 (6) The “office of a group practice” is an office or offices in
37 which two or more physicians are legally organized as a
38 partnership, professional corporation, or not-for-profit
39 corporation licensed according to subdivision (a) of Section 1204



1 of the Health and Safety Code for which all of the following are
2 applicable:

3 (A) Each physician who is a member of the group provides
4 substantially the full range of services that the physician routinely
5 provides, including medical care, consultation, diagnosis, or
6 treatment, through the joint use of shared office space, facilities,
7 equipment, and personnel.

8 (B) Substantially all of the services of the physicians who are
9 members of the group are provided through the group and are
10 billed in the name of the group and amounts so received are treated
11 as receipts of the group, and except that in the case of
12 multispecialty clinics, as defined in subdivision (I) of Section 1206
13 of the Health and Safety Code, physician services are billed in the
14 name of the multispecialty clinic and amounts so received are
15 treated as receipts of the multispecialty clinic.

16 (C) The overhead expenses of, and the income from, the
17 practice are distributed in accordance with methods previously
18 determined by members of the group.

19 (c) (1) It is unlawful for a licensee to enter into an arrangement
20 or scheme, such as a cross-referral arrangement, that the licensee
21 knows, or should know, has a principal purpose of ensuring
22 referrals by the licensee to a particular entity that, if the licensee
23 directly made referrals to that entity, would be in violation of this
24 section.

25 (2) It shall be unlawful for a physician to offer, deliver, receive,
26 or accept any rebate, refund, commission, preference, patronage
27 dividend, discount, or other consideration, whether in the form of
28 money or otherwise, as compensation or inducement for a referred
29 evaluation or consultation.

30 (d) No claim for payment shall be presented by an entity to any
31 individual, third-party payor, or other entity for a ~~good or service~~
32 *any goods or services* furnished pursuant to a referral prohibited
33 under this section.

34 (e) A physician who refers to or seeks consultation from an
35 organization in which the physician has a financial interest shall
36 disclose this interest to the patient or if the patient is a minor, to the
37 patient's parents or legal guardian in writing at the time of the
38 referral.

1 (f) No insurer, self-insurer, or other payor shall pay a charge or
2 lien for any good or service resulting from a referral in violation
3 of this section.

4 (g) A violation of subdivision (a) shall be a misdemeanor. The
5 appropriate licensing board shall review the facts and
6 circumstances of any conviction pursuant to subdivision (a) and
7 take appropriate disciplinary action if the licensee has committed
8 unprofessional conduct. Violations of this section may also be
9 subject to civil penalties of up to five thousand dollars (\$5,000) for
10 each offense, which may be enforced by the Insurance
11 Commissioner, Attorney General, or a district attorney. A
12 violation of subdivision (c), (d), (e), or (f) is a public offense and
13 is punishable upon conviction by a fine not exceeding fifteen
14 thousand dollars (\$15,000) for each violation and appropriate
15 disciplinary action, including revocation of professional licensure,
16 by the Medical Board of California or other appropriate
17 governmental agency.

